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[New Hampshire Code of Administrative Rules](#)  
[Env-Ws 420](#)

## PART Env-Ws 420 GROUNDWATER RECLASSIFICATION

Env-Ws 420.01 Purpose. RSA 485-C establishes 4 classifications for groundwater: GAA, GA1, GA2, and GB. Since passage of the law, all groundwater in New Hampshire was classified as GB or GA2. The purpose of these rules is to establish criteria and procedures for groundwater reclassification and management of wellhead protection areas and other locally important groundwater.

[Source](#). #5542, eff 12-24-92; ss by #6921, eff 12-24-98

### Env-Ws 420.02 Definitions.

(a) "Best management practice" means "best management practice" as defined in RSA 485-C:2, II, namely "schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the risk of contamination of groundwater," as listed in Env-Ws 421.

(b) "Class" means class of groundwater.

(c) "Contributing area" means "contributing area" as defined in RSA 485-C:2, IV, namely "the land above a class of groundwater, which is the vertical projection of the defined class on the land surface."

(d) "Department" means the New Hampshire department of environmental services.

(e) "GAA", means "GAA" as defined in RSA 485-C:5, I, namely "Groundwater in this class is within the wellhead protection area for wells which presently are used or well sites which have been identified for future use as drinking water supply for public water systems."

(f) "GA1", means "GA1" as defined in RSA 485-C:5, I, namely "groundwater in a defined zone of high value for present or future drinking water supply."

(g) "GA2", means "GA2" as defined in RSA 485-C:5, I, namely "groundwater within aquifers identified as highly productive for potential use as a public water supply by the U.S. Geological Survey regional groundwater studies, or other regional studies."

(h) "GB", means "GB" as defined in RSA 485-C:5, I, namely "groundwater not assigned to a higher class".

(i) "Inventory inspection" means a field verification conducted by the department or a local entity to determine that an activity within a proposed groundwater classification that is identified as a potential contamination source actually uses, handles, or stores regulated substances subject to best management practices listed in Env-Ws 421.

(j) "Local entity" means "local entity" as defined in RSA 485-C:2, X, namely "a town or city, acting through a planning board, conservation commission, water department, health officer, or other duly constituted municipal unit; a village district established under RSA 52 or its predecessor statutes; an entity established by intergovernmental agreement under RSA 53-A; or a supplier of water for wellhead protection areas tributary to wells owned by the public water system."

(k) "Management inspection" means a periodic inspection conducted by a local entity to ensure that potential contamination source activities are in compliance with applicable best management practices.

(l) "Potential contamination source" means human activities or operations upon the land surface, as listed in RSA 485-C:7, which pose a foreseeable risk of introducing regulated substances into the environment in such quantities as to degrade the natural groundwater quality.

(m) "Regulated container" means any portable device in which material is stored, transported, treated, disposed of, or otherwise handled, with a capacity of 5 gallons to 1,100 gallons, which has in it a regulated substance(s) and, which if full, would contain 1 pound or more of that regulated substance(s). The term does not include fuel tanks attached to and supplying fuel to a single motor vehicle.

(n) "Regulated substance" means either:

(1) "Oil" means "oil" as defined pursuant to RSA 146 - A:2, III; or

(2) A substance listed in 40 CFR 302, 7-1-90 edition, with the following exclusions:

- a. Ammonia;
- b. Sodium hypochlorite;
- c. Sodium;
- d. Acetic acid;
- e. Sulfuric acid;
- f. Potassium hydroxide; and
- g. Potassium permanganate.

(o) "Transmissivity" means "transmissivity" as defined in RSA 485-C:2, XVI, namely "the rate at which water is transmitted through a unit width of a water-bearing formation under a unit hydraulic gradient. It is equal to the hydraulic conductivity times the saturated thickness of the formation, and is given in units of length squared per unit time."

(p) "Wellhead protection area" means "wellhead protection area" as defined in RSA 485-C:2, XVIII, namely "the surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield."

[Source.](#) #5542, eff 12-24-92; ss by #6921, eff 12-24-98

#### Env-Ws 420.03 Procedures for Reclassification of Groundwater to GAA or GA1.

(a) A local entity requesting reclassification of groundwater to GAA or GA1 shall submit the following to the department on forms provided by the department:

- (1) The date of the request;

- (2) The name of the local entity;
- (3) The name, address, and telephone number of a contact person for the local entity;
- (4) Whether the request is for reclassification to GAA or GA1;
- (5) The names of the municipalities in which the groundwater is located;
- (6) The names of the USGS 7.5 minute series quadrangle maps showing the area in which the groundwater is located; and
- (7) The signature of the local governing body if the local entity is a duly constituted municipal unit.

(b) A request for reclassification submitted under Env-Ws 420.03(a) shall include:

- (1) A wellhead protection area delineation performed in accordance with Env-Ws 420.08 if the request is for reclassification to GAA;
- (2) A definition of the contributing area of high value groundwater for present or future drinking water supply prepared in accordance with Env-Ws 420.09 if the request is for reclassification to GA1;
- (3) A description of the informational meeting if the local entity chooses to hold one, held in accordance with Env-Ws 420.10 including the following information:
  - a. The date of meeting;
  - b. The location of meeting;
  - c. The number of people attending; and

d. The location where meeting notice was posted and newspaper in which it was published;

(4) A potential contamination source inventory report prepared in accordance with Env-Ws 420.12; and

(5) A potential contamination source management program prepared in accordance with Env-Ws 420.13.

[Source](#). #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.04 Procedures for Requesting a Review of Groundwater Classified GAA or GA1.

(a) A person requesting that the department review a contributing area classified as GAA or GA1 to determine if the requirements for inventory and management of potential contamination sources are being met shall submit a report to the department that details non-compliance with the criteria for the present classification.

(b) The department shall respond to a request for review under this section in accordance with the procedures outlined in RSA 485-C:9, V(a), and shall notify in writing the person requesting the review and the local entity of its actions.

(c) The department shall recommend reclassification of the contributing area to GB or GA2 if the area is within a highly productive aquifer identified by the U.S. Geological Survey and the following criteria are met:

(1) The department finds a deficiency in the inventory and management program under review, and finds that the deficiency has not been corrected in accordance with RSA 485-C:9, V(a); and

(2) The department further finds that it has inadequate resources to take over the inspection and management program.

(d) Prior to reclassification to GB or GA2 a public hearing shall be held following notice in accordance with RSA 485-C:9, VI and Env-Ws 420.07(b).

[Source](#). #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.05 Procedures for Requesting a Reclassification of Groundwater to GA2.

(a) Upon receipt of a report or study which identifies areas of bedrock or stratified drift aquifers which are highly productive for public water supply, the department shall recommend to the commissioner that a reclassification to GA2 should occur.

(b) The request shall include:

(1) The date, title, and author of the report or study;

(2) The names of the municipalities in which the groundwater is located;

(3) A summary of the report or study; and

(4) A narrative explaining the reasons for the request.

[Source](#). #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.06 Procedures for Requesting Boundary Changes to an Existing Groundwater Classification.

(a) A request to change a boundary of an existing groundwater classification shall be submitted by the local entity requesting boundary change, on forms provided by the department.

(b) Requests to change a boundary of an existing groundwater classification shall include the following information:

(1) The date of the request;

(2) The name, address, and telephone number of the person making the request;

- (3) The name of the local entity;
  - (4) The classification and location of groundwater under review;
  - (5) USGS 7.5 minute series quadrangle map showing the existing and proposed boundaries of the groundwater classification; and
  - (6) A narrative explaining the reasons for the request.
- (c) If the department determines that the request is based on information not presented at the time of the initial classification of the groundwater, then the department shall take action on the request in accordance with Env-Ws 420.07.

Source. #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.07 Department Action on Requests for Reclassification of Groundwater or for Boundary Changes to Existing Classifications.

(a) Upon receipt of a request for reclassification of groundwater to GAA or GA1 which contains all of the information specified in Env-Ws 420.03, or for a boundary change which contains all of the information specified in Env-Ws 420.06, or for a request for reclassification to GA2 which contains all of the information specified in Env-Ws 420.05, the department shall acknowledge receipt of the request in writing to the local entity and/or the person making the request, and shall schedule and issue notice of a public hearing on the request in accordance with RSA 485-C:9, VI.

(b) The following procedures shall apply to the public hearing required for groundwater reclassification:

(1) A record of the hearing shall:

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a. Be kept by tape recording;



b. Be made available to the public; and

c. Be provided to the public upon request and payment of the reproduction costs;

(2) The presiding officer of a hearing shall be the commissioner or his/her designee;

(3) The presiding officer shall:

a. Regulate the course of the hearing;

b. Rule upon issues of procedure; and

c. Take any other action necessary for the efficient and orderly conduct of the hearing, consistent with applicable state laws and rules;

(4) The presiding officer shall open the hearing by describing in general terms the purpose of the hearing and procedures governing its conduct;

(5) Anyone wishing to submit written testimony or exhibits shall do so to the presiding officer, provided such testimony is signed and dated;

(6) Anyone wishing to testify shall submit his/her name, address, and whom he/she represents, if anyone, in writing to the presiding officer;

(7) The presiding officer shall call each person to present his/her testimony;

(8) The order of oral testimony shall be as follows:

a. The party requesting reclassification;

b. Landowners within the subject groundwater classification;

c. Other interested parties; and

d. Interested state agencies;

(9) At the conclusion of each person's testimony, he/she shall remain available to answer questions from the presiding officer;

(10) Person's who wish to submit written testimony, shall have 14 days after the hearing to do so;

(11) The presiding officer shall terminate any comments or discussions that are not relevant to the subject of the hearing;

(12) When the presiding officer determines that no person has further comments, he/she shall close the hearing;

(13) If additional time is requested to submit supplemental information which the presiding officer determines to be relevant to the subject of the hearing, he/she shall designate a specific time period for the record to remain open;

(14) If requested by a party to the hearing and the presiding officer determines that it is necessary to continue the hearing to obtain all parties' comments, and that no person will be prejudiced by a continuance, the presiding officer shall order that the hearing be continued at a later date, time, and place;

(15) If such later date, time, and place are known at the time of the hearing that is being continued, such date, time, and place shall be stated on the record; and

(16) If such later date, time, and place are not known at the time of the hearing that is being continued, the presiding officer shall state how notice will be given of the date, time, and place of the continued hearing.

(c) Following the public hearing, the commissioner shall notify in writing the party requesting reclassification or boundary change and the local entity of his/her decision on the request.

[Source](#), #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.08 Wellhead Protection Area Delineations.

(a) A local entity requesting reclassification to GAA shall prepare, or shall request the department to prepare, wellhead protection area delineations.

(b) The request shall:

(1) Be submitted on or with forms provided by the department; and

(2) Include the following:

a. The date of the request;

b. The name of the local entity;

c. The municipality in which the well is located;

d. The name and EPA identification number of the well;

e. The well type;

f. The population and municipalities served by the well;

g. The name, address, and telephone number of the well owner and a contact person;

h. The street address and locus map of well location;

i. Hydrogeological or engineering reports, if available; and

j. Any site specific information available for the well site, that is available, such as well siting report(s), boring logs, and pumping test report(s).

(c) If the local entity is performing the delineation for department review, the request shall include all information utilized.

(d) The wellhead protection area delineations shall be based on the information specified in (b).

(e) Upon reclassification to GAA, any challenge to the delineated boundaries shall be made in accordance with Env-Ws 420.06.

[Source.](#) #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.09 Defining Groundwater for Present or Future Drinking Water Supply.

(a) A local entity requesting reclassification to GA1 shall identify areas that are currently used or will be used for future drinking water supply on USGS 7.5 minute series topographic maps.

(b) The requestor under (a) above shall provide a map, accompanied by a report, which includes the following information:

(1) The relationship of the proposed area to existing or planned drinking water supplies, including any hydrogeologic information which supports the definition of the area drawn on the map; and

(2) A description of the extent to which the groundwater is or will be used for drinking water purposes.

(c) Upon reclassification to GA1, any challenge to the delineation shall be made in accordance with Env-Ws 420.06.

[Source.](#) #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.10 Informational Meeting. An informational meeting may be held by the local entity seeking reclassification prior to performing an inventory inspection or developing a management program in order to explain to interested parties that it is seeking reclassification of groundwater. If the local entity is not a private supplier of water, the estimated cost of seeking and maintaining reclassification shall be presented. The notice of this informational meeting shall be published by the local entity in a newspaper in general circulation in the municipality involved and shall be posted in at least 2 public places.

[Source](#). #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.11 Performing an Inventory of Potential Contamination Sources.

(a) A local entity requesting reclassification to GAA or to GA1 shall perform an inventory of potential contamination sources, which shall consist of a review of human activities to determine whether potential contamination sources listed in RSA 485-C:7 are being conducted within the proposed groundwater classification.

(b) The local entity requesting reclassification shall submit an inventory report in accordance with Env-Ws 420.12 on forms provided by the department.

[Source](#). #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.12 Inventory Report. The inventory report shall include:

(a) The information required by RSA 485-C:8, II; and

(b) A description of how the inventory was performed and what sources were used to ensure its completeness.

[Source](#). #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.13 Management Program.

(a) A local entity requesting reclassification to GAA or to GA1 shall include in its request, a potential contamination source management program in accordance with RSA 485-C:8, III.

(b) The potential contamination source management program requested in (a) above shall include the following:

(1) A description of the process for updating the inventory at intervals no greater than 3 years;

(2) A description of the process for written notification to the owner of each potential contamination source listed in the inventory, at intervals no greater than 3 years;

(3) A list of the names of all property owners within the contributing area of the proposed groundwater classification, and their addresses, and tax map and lot numbers;

(4) A list of all facilities requiring or having release detection permits issued in accordance with Env-Wm 1403 within the contributing area of the proposed groundwater classification;

(5) The process for performing a management inspection in accordance with Env-Ws 420.14 of all potential contamination sources located within the contributing area, at least once every 3 years to ascertain compliance with best management practices for preventing groundwater contamination. However, pesticides regulated under RSA 420:28-48 and agricultural operations which are operated in compliance with all applicable chapters of RSA title XL and best management practices developed, administered and enforced by the New Hampshire department of agriculture shall not be subject to inspection under these rules, pursuant to RSA 485-C:8, III, (c) (1) and (2); and

(6) An assessment of the ability of the local entity to implement and maintain the potential contamination source management program.

(c) The written notification to each potential contamination source shall include:

(1) The name and address of the contact person for the local entity requesting reclassification, and, for GAA areas, the location of the well(s) for which the contributing area was delineated;

(2) A statement that the potential contamination source is in either a wellhead protection area, or is an area likely to have groundwater below it that is drawn to a community water supply well, or an area of potential use for future public water supply;

(3) A statement of what the present use of the property is and a statement that it is considered to have potential for groundwater contamination;

(4) A copy of Env-Ws 421, "Best Management Practices";

(5) A statement that any unpermitted discharge to groundwater, or contamination of groundwater, is illegal under RSA 485-A:13 and Env-Wm 1403 and Env-Ws 1500; and

(6) The name and phone number of a contact person and affiliated agency to call at the local level and at the state level to answer any questions about the program.

[Source.](#) #5542, eff 12-24-92; ss by #6921, eff 12-24-98

Env-Ws 420.14 Performance of Management Inspections.

(a) Management inspections of potential contamination sources in groundwater classified as GAA or GA1 shall be conducted by a local entity at least once every 3 years. However, pesticides regulated under RSA 430:28-48 and agricultural operations which are operated in compliance with all applicable chapters of RSA title XL and best management practices developed, administered, and enforced by the New Hampshire department of agriculture shall not be subject to inspection under these rules.

(b) The local entity shall provide written notice of any violations of best management practices to the owner of the potential contamination source within 30 days of the date of the management inspection.

(c) Inability to gain access to a potential contamination source for the purpose of conducting a management inspection shall be reported by the local entity to the local health officer and to the department.

[Source.](#) #6921, eff 12-24-98